



[Billing code: 6750-01-S]

## **FEDERAL TRADE COMMISSION**

### **Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension**

**AGENCY:** Federal Trade Commission (“FTC” or “Commission”).

**ACTION:** Notice.

**SUMMARY:** The FTC intends to ask the Office of Management and Budget (“OMB”) to extend through April 30, 2015, the current Paperwork Reduction Act (“PRA”) clearance for the information collection requirements in four consumer financial regulations enforced by the Commission. Those clearances expire on April 30, 2012.

**DATES:** Comments must be filed by [insert date 30 days after date of publication in the FEDERAL REGISTER].

**ADDRESSES:** Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “Regs BEMZ, PRA Comments, P084812” on your comment and file your comment online at <https://ftcpublic.commentworks.com/ftc/RegsBEMZpra2> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex J), 600 Pennsylvania Avenue, NW, Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the proposed information requirements should be addressed to Carole Reynolds or Soyong Cho, Attorneys, Division of Financial Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave., NW, Washington, DC 20580, (202) 326-3224.

**SUPPLEMENTARY INFORMATION:** The four regulations covered by this notice are:

(1) Regulations promulgated under The Equal Credit Opportunity Act, 15 U.S.C. 1691 et seq. (“ECOA”) (“Regulation B”) (OMB Control Number: 3084-0087);

(2) Regulations promulgated under The Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq. (“EFTA”) (“Regulation E”) (OMB Control Number: 3084-0085);

(3) Regulations promulgated under The Consumer Leasing Act, 15 U.S.C. 1667 et seq. (“CLA”) (“Regulation M”) (OMB Control Number: 3084-0086); and

(4) Regulations promulgated under The Truth-In-Lending Act, 15 U.S.C. 1601 et seq. (“TILA”) (“Regulation Z”) (OMB Control Number: 3084-0088).

The FTC enforces these statutes as to all businesses engaged in conduct these laws cover unless these businesses (such as federally chartered or insured depository institutions) are subject to the regulatory authority of another federal agency.

Under the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”), Pub. L. 111–203, 124 Stat. 1376 (2010), almost all rulemaking authority for the ECOA, EFTA, CLA, and TILA transferred from the Board of Governors of the Federal Reserve System (Board) to the Consumer Financial Protection Bureau (CFPB) on July 21, 2011 (“transfer date”). To implement this transferred authority, the CFPB has published for public comment interim final rules for new regulations in 12 CFR Part 1002 (Regulation B), 12 CFR Part 1005 (Regulation E), 12 CFR Part 1013 (Regulation M), and 12 CFR 1026 (Regulation Z) for those entities under its rulemaking jurisdiction.<sup>1</sup> Although the Dodd-Frank Act transferred most rulemaking authority under ECOA, EFTA, CLA, and TILA to the CFPB, the Board retained

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<sup>1</sup> 12 CFR 1002 (Reg. B) (76 FR 79442, Dec. 21, 2011); 12 CFR 1005 (Reg. E) (76 FR 81020, Dec. 27, 2011) (amended, 77 FR 6194, Fed. 7, 2012); 12 CFR 1013 (Reg. M) (76 FR 78500, Dec. 19, 2011) (corrected, 76 FR 81789, Dec. 29, 2011); 12 CFR 1026 (Reg. Z) (76 FR 79768, Dec. 22, 2011).

rulemaking authority for certain motor vehicle dealers<sup>2</sup> under all of these statutes and also for certain interchange-related requirements under EFTA.<sup>3</sup>

As a result of the Dodd-Frank Act, the FTC and the CFPB now share the authority to enforce Regulations B, E, M, and Z for entities for which the FTC had enforcement authority before the Act, except for certain motor vehicle dealers. Because of this shared enforcement jurisdiction, the two agencies have divided the FTC's previously-cleared PRA burden between them,<sup>4</sup> except that the FTC retained all of the part of that burden associated with certain motor vehicle dealers (for brevity, referred to in the burden summaries below as a "carve-out").<sup>5</sup> The division of PRA burden hours not attributable to certain motor vehicle dealers is reflected in the CFPB's recent PRA clearance requests to OMB,<sup>6</sup> as well as in the FTC's burden estimates below.

As a result of the Dodd-Frank Act, the FTC generally has sole authority to enforce Regulations B, E, M, and Z regarding motor vehicle dealers predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.<sup>7</sup> Because the FTC has exclusive jurisdiction to enforce these rules for such motor vehicle dealers, it is

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<sup>2</sup> Generally, these are dealers "predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both." See Dodd-Frank Act, § 1029(a), -(c).

<sup>3</sup> See Dodd-Frank Act, § 1075 (these requirements are implemented through Board Regulation II, 12 CFR Part 235, rather than EFTA's implementing Regulation E).

<sup>4</sup> The CFPB also factored into its burden estimates respondents over which it has jurisdiction but the FTC does not.

<sup>5</sup> These are dealers specified by the Dodd-Frank Act under § 1029 (a), but as limited by subsection (b). Subsection (b) does not preclude CFPB regulatory oversight regarding, among others, businesses that extend retail credit or retail leases for motor vehicles in which the credit or lease offered is provided directly from those businesses, rather than unaffiliated third parties, to consumers. It is not practicable, however, for PRA purposes, to estimate the portion of dealers that engage in one form of financing versus another (and that would or would not be subject to CFPB oversight). Thus, FTC staff's "carve-out" for this PRA burden analysis reflects a general estimated volume of motor vehicle dealers. This attribution does not change actual enforcement authority.

<sup>6</sup> OMB Control Numbers 3170-0013 (Regulation B), 3170-0014 (Regulation E), 3170-0008 (Regulation M), and 3170-0015 (Regulation Z)

<sup>7</sup> See Dodd-Frank Act, § 1029(a), -(c).

including the entire PRA burden for them in the burden estimates below.

Under the PRA, 44 U.S.C. 3501-3521, Federal agencies must get OMB approval for each collection of information they conduct or sponsor. “Collection of information” includes agency requests or requirements to keep records or provide information to a third party. *See* 44 U.S.C. 3502(3); 5 CFR 1320.3(c). The regulations impose certain recordkeeping and disclosure requirements associated with providing credit or with other financial transactions.

On February 7, 2012, the Commission sought comment on the information collection requirements associated with these four regulations. 77 FR 6114.<sup>8</sup> The Commission received one comment from the National Automobile Dealers Association (“NADA”) pertaining to regulatory burden affecting Regulations B, M, and Z.<sup>9</sup>

NADA stated, as a general matter, that the FTC staff estimates greatly underestimate the recordkeeping, disclosure, and other related compliance requirements for NADA members<sup>10</sup> for the rules at issue, particularly Regulations B, M, and Z. NADA provided two illustrations of this point for Regulations M and Z (discussed and analyzed below under their applicable sub-headings), but did not provide sufficient specific information from which staff could revisit and revise its estimates. Pursuant to the OMB rules, 5 CFR Part 1320, that implement the PRA, 44 U.S.C. 3501 et seq., the FTC is providing this second opportunity for NADA and the general public to comment while the FTC seeks OMB approval to renew the pre-existing clearance for these rules.

Although all four of the regulations require covered entities to keep certain records, FTC

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<sup>8</sup> The Commission published a follow-up notice in the *Federal Register* on March 5, 2012 (77 FR 13127) to correct certain formatting errors in the Regulation M burden hours table that had initially resulted in misaligned and missing columnar information in that table.

<sup>9</sup> NADA’s comment is available at <http://www.ftc.gov/os/comments/regsbemzpra/index.shtm>.

<sup>10</sup> NADA states that it represents approximately 16,000 new car and truck dealers, both domestic and import, with over 32,500 separate franchises. *Id.*

staff believes these records are kept in the normal course of business even absent the particular recordkeeping requirements.<sup>11</sup> Covered entities, however, may incur some burden associated with ensuring that they do not prematurely dispose of relevant records (i.e., during the time span they must retain records under the applicable regulation).

The regulations also require covered entities to make disclosures to third-parties. Related compliance involves set-up/monitoring and transaction-specific costs. “Set-up” burden, incurred only by covered new entrants, includes their identifying the applicable required disclosures, determining how best to comply, and designing and developing compliance systems and procedures. “Monitoring” burden, incurred by all covered entities, includes their time and costs to review changes to regulatory requirements, make necessary revisions to compliance systems and procedures, and to monitor the ongoing operation of systems and procedures to ensure continued compliance. “Transaction-related” burden refers to the time and cost associated with providing the various required disclosures in individual transactions. While this burden varies with the number of transactions, the figures shown for transaction-related burden in the tables that follow are estimated averages.

The required disclosures do not impose PRA burden on some covered entities because they make those disclosures in their normal course of activities. For other covered entities that do not, their compliance burden will vary widely depending on the extent to which they have developed effective computer-based or electronic systems and procedures to communicate and document required disclosures.<sup>12</sup>

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<sup>11</sup> PRA “burden” does not include effort expended in the ordinary course of business, regardless of any regulatory requirement. 5 CFR 1320.3(b)(2).

<sup>12</sup> For example, large companies may use computer-based and/or electronic means to provide required disclosures, including issuing some disclosures en masse, e.g., notices of changes in terms. Smaller companies may have less automated compliance systems but may nonetheless rely on electronic mechanisms for disclosures and recordkeeping. Regardless of size, some entities may utilize compliance systems that are fully integrated into their

Calculating the burden associated with the four regulations' disclosure requirements is very difficult because of the highly diverse group of affected entities. The "respondents" included in the following burden calculations consist of, among others, credit and lease advertisers, creditors, owners (such as purchasers and assignees) of credit obligations, financial institutions, service providers, certain government agencies and others involved in delivering electronic fund transfers ("EFTs") of government benefits, and lessors.<sup>13</sup> The burden estimates represent FTC staff's best assessment, based on its knowledge and expertise relating to the financial services industry. Staff considered the wide variations in covered entities' (1) size and location; (2) credit or lease products offered, extended, or advertised, and their particular terms; (3) EFT types used; (4) types and frequency of adverse actions taken; (5) types of appraisal reports utilized; and (6) computer systems and electronic features of compliance operations.

The cost estimates that follow relate solely to labor costs, and they include the time necessary to train employees how to comply with the regulations. Staff calculated labor costs by multiplying appropriate hourly wage rates by the burden hours described above. The hourly rates used were \$49 for managerial oversight, \$30 for skilled technical services, and \$16 for clerical work. These figures are averages drawn from Bureau of Labor Statistics data.<sup>14</sup> Further, the FTC cost estimates assume the following labor category apportionments, except where otherwise indicated below: recordkeeping – 10% skilled technical, 90% clerical; disclosure – 10% managerial, 90% skilled technical.

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general business operational system; if so, they may have minimal additional burden. Other entities may have incorporated fewer of these approaches into their systems and thus may have a higher burden.

<sup>13</sup> The Commission generally does not have jurisdiction over banks, thrifts, and federal credit unions under the applicable regulations.

<sup>14</sup> These inputs are based broadly on mean hourly data found within the National Compensation Survey: Occupational Earnings in the United States, 2010, Bulletin 2753 (May 2011), Table 3 (<http://www.bls.gov/ncs/ocs/sp/nctb1477.pdf>).

The applicable PRA requirements impose minimal capital or other non-labor costs. Affected entities generally already have the necessary equipment for other business purposes. Similarly, FTC staff estimates that compliance with these rules entails minimal printing and copying costs beyond that associated with documenting financial transactions in the ordinary course of business.

## **1. Regulation B**

The ECOA prohibits discrimination in the extension of credit. Regulation B implements the ECOA, establishing disclosure requirements to assist customers in understanding their rights under the ECOA and recordkeeping requirements to assist agencies in enforcement. Regulation B applies to retailers, mortgage lenders, mortgage brokers, finance companies, and others.

### **Recordkeeping**

FTC staff estimates that Regulation B's general recordkeeping requirements affect 530,479 credit firms subject to the Commission's jurisdiction, at an average annual burden of 1.25 hours per firm<sup>15</sup> for a total of 663,099 hours.<sup>16</sup> Staff also estimates that the requirement that mortgage creditors monitor information about race/national origin, sex, age, and marital status imposes a maximum burden of one minute each (of skilled technical time) for approximately 2.25 million credit applications (based on industry data regarding the approximate number of mortgage purchase and refinance originations), for a total of 37,500 hours.<sup>17</sup> Staff also estimates

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<sup>15</sup> This is an increase from past estimates of one hour per respondent in view of more complex transactions and their associated impact on recordkeeping.

<sup>16</sup> Section 1071 of the Dodd-Frank Act amends the ECOA to require financial institutions to collect and report information concerning credit applications by women- or minority-owned businesses and small businesses, effective on the July 21, 2011 transfer date. Both the CFPB and the Board have exempted affected entities from complying with this requirement until a date set by the prospective final rules these agencies issue to implement the Dodd-Frank Act's requirements. The Commission will address PRA burden for its enforcement of these requirements after the CFPB and the Board have issued the associated final rules.

<sup>17</sup> Regulation B contains model forms that creditors may use to gather and retain the required information.

that recordkeeping of self-testing subject to the regulation would affect 1,375 firms, with an average annual burden of one hour (of skilled technical time) per firm, for a total of 1,375 hours, and that recordkeeping of any corrective action as a result of self-testing would affect 10% of them, i.e., 138 firms, with an average annual burden of four hours (of skilled technical time) per firm, for a total of 552 hours.<sup>18</sup> Keeping records of race/national origin, sex, age, and marital status requires an estimated one minute of skilled technical time. Recordkeeping for the self-test responsibility and of any corrective actions requires an estimated one hour and four hours, respectively, of skilled technical time.

#### Disclosure

Regulation B requires that creditors (i.e., entities that regularly participate in the decision whether to extend credit under Regulation B) provide notices whenever they take adverse action, such as denial of a credit application. It requires entities that extend various types of mortgage credit to provide a copy of the appraisal report to applicants or to notify them of their right to a copy of the report (and thereafter provide a copy of the report, upon the applicant's request). Finally, Regulation B also requires that for accounts which spouses may use or for which they are contractually liable, creditors who report credit history must do so in a manner reflecting both spouses' participation. Further, it requires creditors that collect applicant characteristics for purposes of conducting a self-test to disclose to those applicants that: (1) providing the information is optional; (2) the creditor will not take the information into account in any aspect of the credit transactions; and (3) if applicable, the information will be noted by visual

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<sup>18</sup> In contrast to banks, for example, entities under FTC jurisdiction are not subject to audits for compliance with Regulation B; rather they may be subject to FTC investigations and enforcement actions. This may impact the level of self-testing (as specifically defined by Regulation B) in a given year, and staff has sought to address such factors in its burden estimates.



observation or surname if the applicant chooses not to provide it.<sup>19</sup>

### Burden Totals

Recordkeeping: **702,526 hours** (625,977 + 76,549 carve-out for motor vehicles);

**\$12,720,734** (\$11,384,370 + \$1,336,364 carve-out for motor vehicles),

**associated labor costs**

Disclosures: **1,164,458 hours** (1,032,206 + 132,252 carve-out for motor vehicles);

**\$37,146,214** (\$32,927,360 + \$4,218,854 carve-out for motor vehicles),

**associated labor costs**

### Regulation B: Disclosures – Burden Hours

Disclosures	Respondents	Setup/Monitoring <sup>1</sup>		Number of Transactions	Transaction-related <sup>2</sup>		
		Average Burden per Respondent (hours)	Total Setup/Monitoring Burden (hours)		Average Burden per Transaction (minutes)	Total Transaction Burden (hours)	Total Burden (hours)
Credit history reporting	133,000	.25	33,250	66,309,750	.25	276,291	309,541
Adverse action notices	530,000	.75	397,500	106,096,000	.25	442,067	839,567
Appraisal notices	5,000	.5	2,500	1,125,000	.25	4,688	7,188
Appraisal reports	5,000	.5	2,500	1,125,000	.25	4,688	7,188
Self-test disclosures	1,375	.5	688	68,750	.25	286	974
Total							1,164,458

<sup>1</sup> The estimates shown reflect a decrease in applicable mortgage entities regarding appraisal notices and appraisal reports. The figures assume that approximately half of mortgage entities (.5 x 10,000, or 5,000 businesses) would not otherwise provide this information and thus would be affected. The figures also assume that all applicable entities would provide notices first and thereafter provide the reports upon request.

<sup>2</sup> The above figures reflect a decrease in mortgage transactions, compared to prior FTC estimates. They also assume that half of applicable mortgage transactions (.5 x 2,250,000, or 1,125,000) would not otherwise provide the appraisal notices and reports and thus would be affected.

### Regulation B: Recordkeeping and Disclosures – Cost

Required Task	-----Managerial-----		-----Skilled Technical-----		-----Clerical-----		Total Cost (\$)
	Time (hours)	Cost (\$49/hr.)	Time (hours)	Cost (\$30/hr.)	Time (hours)	Cost (\$16/hr.)	
General recordkeeping	0	\$0	66,310	\$1,989,300	596,789	\$9,548,624	\$11,537,924
Other recordkeeping	0	\$0	37,500	\$1,125,000	0	\$0	\$1,125,000
Recordkeeping of test	0	\$0	1,375	\$41,250	0	\$0	\$41,250
Recordkeeping of corrective action	0	\$0	552	\$16,560	0	\$0	\$16,650
Total Recordkeeping							\$12,720,734
Disclosures:							
Credit history reporting	30,954	\$1,516,746	278,587	\$8,357,610	0	\$0	\$9,874,356
Adverse action notices	83,957	\$4,113,893	755,610	\$22,668,300	0	\$0	\$26,782,193

<sup>19</sup> The disclosure may be provided orally or in writing. The model form provided by Regulation B assists creditors in providing the written disclosure.

Appraisal notices	719	\$35,231	6,469	\$194,070	0	\$0	\$229,301
Appraisal reports	719	\$35,231	6,469	\$194,070	0	\$0	\$229,301
Self-test disclosure	97	\$4,753	877	\$26,310	0	\$0	\$31,063
Total Disclosures							\$37,146,214
Total Recordkeeping and Disclosures							\$49,866,948

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## 2. Regulation E

The EFTA requires that covered entities provide consumers with accurate disclosure of the costs, terms, and rights relating to EFT and certain other services. Regulation E implements the EFTA, establishing disclosure and other requirements to aid consumers and recordkeeping requirements to assist agencies with enforcement. It applies to financial institutions, retailers, gift card issuers and others that provide gift cards, service providers, various federal and state agencies offering EFTs, remittance transfer providers, etc. Staff estimates that Regulation E's recordkeeping requirements affect 391,120 firms offering EFT services to consumers and that are subject to the Commission's jurisdiction, at an average annual burden of one hour per firm, for a total of 391,120 hours. This is further detailed below.

### Burden Totals

Recordkeeping: **391,120 hours** (375,881 + 15,239 carve-out);

**\$6,805,488** (\$6,540,328 + \$265,160 carve-out), **associated labor costs**

Disclosures: **4,019,797 hours** (4,002,868 + 16,929 carve-out);

**\$128,236,961** (\$127,696,924 + \$540,037 carve-out), **associated labor costs**

## Regulation E: Disclosures – Burden Hours

Disclosures	Respondents	-----Setup/Monitoring-----		Number of Transactions	-----Transaction-related-----		
		Average Burden per Respondent (hours)	Total Setup/Monitoring Burden (hours)		Average Burden per Transaction (minutes)	Total Transaction Burden (hours)	Total Burden (hours)
Initial terms	50,000	.5	25,000	500,000	.02	167	25,167
Change in terms	12,500	.5	6,250	16,500,000	.02	5,500	11,750
Periodic statements	50,000	.5	25,000	600,000,000	.02	200,000	225,000
Error resolution	50,000	.5	25,000	500,000	5	41,667	66,667
Transaction receipts	50,000	.5	25,000	2,500,000,000	.02	833,333	858,333
Preauthorized transfers <sup>1</sup>	257,620	.5	128,810	6,440,500	.25	26,835	155,645
Service provider notices	50,000	.25	12,500	500,000	.25	2,083	14,583
Govt. benefit notices	5,000	.5	2,500	50,000,000	.25	208,333	210,833
ATM notices <sup>2</sup>	250	.25	63	50,000,000	.25	208,333	208,396
Electronic check conversion <sup>3</sup>	57,620	.5	28,810	1,152,400	.02	384	29,194
Payroll cards <sup>4</sup>	125	.5	63	500,000	3	25,000	25,063
Overdraft services <sup>5</sup>	50,000	.5	25,000	2,500,000	.02	833	25,833
Gift cards <sup>6</sup>	50,000	.5	25,000	2,500,000,000	.02	833,333	858,333
Remittance transfers <sup>7</sup>							
Disclosures	35,000	1	35,000	18,000,000	1	300,000	335,000
Error resolution	35,000	1	35,000	36,000,000	1	600,000	635,000
Agent compliance	35,000	1	35,000	18,000,000	1	300,000	335,000
Total							4,019,797

<sup>1</sup> Estimated preauthorized transfers have increased from the FTC's previously cleared estimate.

<sup>2</sup> Estimated ATM transactions have increased from the FTC's previously cleared estimate.

<sup>3</sup> Estimated electronic check conversion has decreased from the FTC's previously cleared estimate.

<sup>4</sup> Payroll card entities and transactions have increased greatly over the years, in large part due to the evolving economy as well as companies seeking ways to cut costs and reduce the amount of paper used in daily operations.

<sup>5</sup> Regulation E now covers overdraft services.

<sup>6</sup> Regulation E now, in part, covers gift cards.

<sup>7</sup> Regulation E now covers remittance transfers.

## Regulation E: Recordkeeping and Disclosures – Cost

Required Task	-----Managerial-----		-----Skilled Technical-----		-----Clerical-----		Total Cost (\$)
	Time (hours)	Cost (\$49/hr.)	Time (hours)	Cost (\$30/hr.)	Time (hours)	Cost (\$16/hr.)	
Recordkeeping	0	\$0	39,112	\$1,173,360	352,008	\$5,632,128	\$6,805,488
Disclosures:							
Initial terms	2,517	\$123,333	22,650	\$679,500	0	\$0	\$802,833
Change in terms	1,175	\$57,575	10,750	\$322,500	0	\$0	\$380,075
Periodic statements	22,500	\$1,102,500	202,500	\$6,075,000	0	\$0	\$7,177,500
Error resolution	6,667	\$326,883	60,000	\$1,800,000	0	\$0	\$2,126,883
Transaction receipts	85,833	\$4,205,817	772,500	\$23,175,000	0	\$0	\$27,380,817
Preauthorized transfers	15,565	\$762,685	140,080	\$4,202,400	0	\$0	\$4,965,085
Service provider notices	1,458	\$71,442	13,125	\$393,750	0	\$0	\$465,192
Govt. benefit notices	21,083	\$1,033,067	189,750	\$5,692,500	0	\$0	\$6,725,567
ATM notices	20,840	\$1,021,160	187,556	\$5,626,680	0	\$0	\$6,647,840
Electronic check conversion	2,919	\$143,031	26,275	\$788,250	0	\$0	\$931,281
Payroll cards	2,506	\$122,794	22,557	\$676,710	0	\$0	\$799,504
Overdraft services	2,583	\$126,567	23,250	\$697,500	0	\$0	\$824,067
Gift cards	85,833	\$4,205,817	772,500	\$23,175,000	0	\$0	\$27,380,817
Remittance transfers							
Disclosures	33,500	\$1,641,500	301,500	\$9,045,000	0	\$0	\$10,686,500
Error resolution	63,500	\$3,111,500	571,500	\$17,145,000	0	\$0	\$20,256,500
Agent compliance	33,500	\$1,641,500	301,500	\$9,045,000	0	\$0	\$10,686,500
Total Disclosures							\$128,236,961
Total Recordkeeping and Disclosures							\$135,042,449

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### **3. Regulation M**

The CLA requires that covered entities provide consumers with accurate disclosure of the costs and terms of leases. Regulation M implements the CLA, establishing disclosure requirements to help consumers comparison shop and understand the terms of leases and recordkeeping requirements. It applies to vehicle lessors (such as auto dealers, independent leasing companies, and manufacturers' captive finance companies), computer lessors (such as computer dealers and other retailers), furniture lessors, various electronic commerce lessors, diverse types of lease advertisers, and others.

Staff estimates that Regulation M's recordkeeping requirements affect approximately 54,442 firms within the FTC's jurisdiction leasing products to consumers at an average annual burden of one hour per firm, for a total of 54,442 hours.

In its comment NADA observed that preliminary reports from dealers suggest that the FTC estimate for Regulation M advertising compliance, as applied to lease advertisements for motor vehicle dealers, is understated. NADA, however, focused on the FTC estimate of 15 seconds for required disclosures in individual transactions, here, for advertisements. It is "set-up/monitoring" burden, defined above, though, that addresses the time (and associated labor cost) applicable to systems review and monitoring for continued compliance. For lease advertising, estimated setup/monitoring burden is a half-hour.

As noted above, the Commission's jurisdiction covers a highly diverse universe of entities. The population of affected motor vehicle dealers is one component of a much larger universe of such entities. Thus, the FTC's estimates may understate some entities' actual experience and perhaps overstate others'. On balance, though, FTC staff believes these estimates

are a fair reflection for the overall universe affected, and the estimates factor into consideration that PRA “burden” does not include effort expended in the ordinary course of business, independent of regulatory requirements.<sup>20</sup>

### Burden Totals

Recordkeeping: **54,442 hours** (40,558 + 13,884 carve-out);

**\$947,288** (\$705,712 + \$241,576 carve-out), **associated labor costs**

Disclosures: **68,403 hours** (42,139 + 26,264 carve-out);

**\$2,182,050** (\$1,344,228 + \$837,822 carve-out), **associated labor costs**

### Regulation M: Disclosures – Burden Hours

Disclosures	Respondents	Setup/Monitoring		Number of Transactions	Transaction-related		
		Average Burden per Respondent (hours)	Total Setup/Monitoring Burden (minutes)		Average Burden per Transaction (minutes)	Total Transaction Burden (hours)	Total Burden (hours)
Motor Vehicle Leases <sup>1</sup>	29,442	1	29,442	1,972,614	.50	16,438	45,880
Other Leases <sup>2</sup>	25,000	.50	12,500	250,000	.25	1,042	13,542
Advertising	13,471	.50	6,736	538,840	.25	2,245	8,981
Total							68,403

<sup>1</sup> This category focuses on consumer vehicle leases. Vehicle leases are subject to more lease disclosure requirements (pertaining to computation of payment obligations) than other lease transactions. (Only consumer leases for more than four months are covered.) See 15 U.S.C. § 1667(1); 12 CFR § 1013.2(e)(1). Leases up to \$50,000 (plus an annual adjustment) are now covered, which increases the breadth of transactions subject to the FTC’s jurisdiction under Regulation M. This increase, however, is more than offset by the FTC now sharing PRA burden with the CFPB, which thus yields a net decrease from past FTC estimates of the number of transactions.

<sup>2</sup> This category focuses on all types of consumer leases other than vehicle leases. It includes leases for computers, other electronics, small appliances, furniture, and other transactions. (Only consumer leases for more than four months are covered.) See 15 U.S.C. § 1667(1); 12 CFR § 1013.2(e)(1). The figures shown for respondents and transactions reflect a net decrease from prior FTC estimates, given current market conditions and the new PRA burden sharing with the CFPB while also recognizing that the CLA and Regulation M now cover leases up to \$50,000 (plus an annual adjustment).

### Regulation M: Recordkeeping and Disclosures – Cost

Required Task	-----Managerial-----		-----Skilled Technical-----		-----Clerical-----		Total
	Time (hours)	Cost (\$49/hr.)	Time (hours)	Cost (\$30/hr.)	Time (hours)	Cost (\$16/hr.)	Cost (\$)
Recordkeeping	0	\$0	5,444	\$163,320	48,998	\$783,968	\$947,288
Disclosures:							
Motor Vehicle Leases	4,588	\$224,812	41,292	\$1,238,760	0	\$0	\$1,463,572

<sup>20</sup> For example, some entities may advertise leases but may not promote the lease terms covered by Regulation M; instead, they may make general statements about offering leases, which do not trigger advertising compliance responsibilities under Regulation M.

Other Leases	1,354	\$66,346	12,188	\$365,640	0	\$0	\$431,986
Advertising	898	\$44,002	8,083	\$242,490	0	\$0	\$286,492
Total Disclosures							\$2,182,050
Total Recordkeeping and Disclosures							\$3,129,338

#### 4. Regulation Z

Congress enacted the TILA to foster comparison credit shopping and informed credit decision making by requiring creditors and others to provide accurate disclosures regarding the costs and terms of credit to consumers. Regulation Z implements the TILA, establishing disclosure requirements to assist consumers and recordkeeping requirements to assist agencies with enforcement. These requirements pertain to open-end and closed-end credit and apply to various types of entities, including mortgage companies; finance companies; auto dealerships; private education loan companies; merchants who extend credit for goods or services; credit advertisers; acquirers of mortgages; and others.

In its comment, NADA stated that Regulation Z closed-end credit advertising requires much more than one minute of review for individual dealers to gauge compliance with disclosure requirements. As with its point about the FTC’s estimate for lease advertising under Regulation M, NADA focused here on the FTC estimate of the time per disclosure in an individual transaction, here, for advertisements, rather than on the time for “set-up/monitoring.” Under the latter category of PRA burden, the FTC estimate is a half-hour.

NADA also stated that the estimated burden total appears to assume an average of two transactions per respondent for advertising, with an average burden per transaction of one minute. NADA stated that automobile dealers advertise hundreds, if not thousands of vehicles per year in print, on television, radio, and on sometimes numerous websites and other electronic media, and that many are subject to Regulation Z. Again, we note that PRA “burden” does not

include effort expended in the ordinary course of business, independent of regulatory requirements.<sup>21</sup> Here, too, as with the other regulations discussed above, we have sought to focus on average incremental PRA burden for the overall – and broad – universe of affected entities.

Commission staff estimates that Regulation Z’s recordkeeping requirements affect approximately 530,479 entities subject to the FTC’s jurisdiction, at an average annual burden of 1.25 hours per entity,<sup>22</sup> for a total of 663,099 hours. This is further detailed below along with estimates for disclosures under Regulation Z.

#### Burden Totals

Recordkeeping: **663,099 hours** (586,900 + 76,199 carve-out);

**\$11,537,924** (\$10,212,060 + \$1,325,864 carve-out), **associated labor costs**

Disclosures: **12,000,274 hours** (10,957,621 + 1,042,653 carve-out);

**\$382,858,568** (\$349,597,924 + \$33,260,644 carve-out), **associated labor costs**

#### Regulation Z: Disclosures – Burden Hours

Disclosures <sup>1</sup>	----- Setup/Monitoring -----			----- Transaction-related -----			
	Respondents	Average Burden per Respondent <sup>2</sup> (hours)	Total Setup/Monitoring Burden (hours)	Number of Transactions	Average Burden per Transaction <sup>3</sup> (minutes)	Total Transaction Burden (hours)	Total Burden (hours)
Open-end credit:							
Initial terms	45,000	.75	33,750	20,000,000	.375	125,000	158,750
Rescission notices <sup>4</sup>	1,875	.5	938	100,000	.25	417	1,355
Subsequent disclosures	10,000	.75	7,500	62,500,000	.188	195,833	203,333
Periodic statements	45,000	.75	33,750	1,750,000,000	.0938	2,735,833	2,769,583
Error resolution	45,000	.75	33,750	4,000,000	6	400,000	433,750
Credit and charge card accounts	25,000	.75	18,750	12,500,000	.375	78,125	96,875
Settlement of estate debts <sup>5</sup>	45,000	.75	33,750	1,000,000	.375	6,250	40,000
Special credit card requirements <sup>6</sup>	25,000	.75	18,750	12,500,000	.375	78,125	96,875
Home equity lines of credit <sup>7</sup>	1,875	.5	938	875,000	.25	3,646	4,584

<sup>21</sup> Some entities may not promote credit terms covered by Regulation Z. For example, they may offer sale prices for products or make general statements about the availability of credit, which do not trigger advertising compliance responsibilities under Regulation Z. Others may offer specific credit terms but they may be subject to exceptions under Regulation Z, and disclosures would not be required, such as offers that no downpayment or no trade-in is required.

<sup>22</sup> This is an increase from past estimates of one hour per respondent in recognition of the breadth of amendments to Regulation Z and their associated impact on recordkeeping though increased coverage and more complex transactions.

College student credit card marketing – ed. institutions <sup>8</sup>	2,500	.5	1,250	250,000	.25	1,042	2,292
College student credit card marketing – card issuer reports <sup>9</sup>	300	.75	225	18,000	.75	225	450
Posting and reporting of credit card agreements <sup>10</sup>	25,000	.75	18,750	12,500,000	.375	78,125	96,875
Advertising	100,000	.75	75,000	300,000	.75	3,750	78,750
Sale, transfer, or assignment of mortgages <sup>11</sup>	1,875	.5	938	1,750,000	.25	7,292	8,230
Appraiser misconduct reporting <sup>12</sup>	625,000	.75	468,750	12,500,000	.375	78,125	546,875
Closed-end credit:							
Credit disclosures <sup>13</sup>	380,480	.75	285,360	163,225,920	2.25	6,120,972	6,406,332
Rescission notices <sup>14</sup>	18,750	.5	9,375	7,500,000	1	125,000	134,375
Redisclosures <sup>15</sup>	200,000	.5	100,000	1,000,000	2.25	37,500	137,500
Variable rate mortgages <sup>16</sup>	17,500	.5	8,750	500,000	1.5	12,500	21,250
High rate/high-fee mortgages and higher priced mortgages <sup>17</sup>	10,000	.5	5,000	125,000	1.5	3,125	8,125
Reverse mortgages <sup>18</sup>	12,500	.5	6,250	43,750	1	729	6,979
Advertising	240,240	.5	120,120	480,480	1	8,008	128,128
Private education loans <sup>19</sup>	100	.5	50	50,000	1.5	1,250	1,300
Sale, transfer, or assignment of mortgages <sup>20</sup>	100,000	.5	50,000	5,000,000	.25	20,833	70,833
Appraiser misconduct reporting <sup>21</sup>	625,000	.75	468,750	12,500,000	.375	78,125	546,875
Total open-end credit							4,538,577
Total closed-end credit							7,461,697
Total credit							12,000,274

<sup>1</sup> Regulation Z requires disclosures for closed-end and open-end credit. TILA and Regulation Z now cover credit up to \$50,000 plus an annual adjustment (except that real estate credit and private education loans are covered regardless of amount), generally causing an increase in transactions. In some instances noted below, market changes have reduced estimated PRA burden. In other instances noted below, changes to Regulation Z have increased estimated PRA burden. The overall effect of these competing factors, combined with the FTC now sharing with the CFPB estimated PRA burden (for all but certain motor vehicle dealers) yields a net decrease from the FTC's prior reported estimate for open-end credit and a net increase from the FTC's prior burden estimate for closed-end credit.

<sup>2</sup> Burden per respondent in many categories has increased compared to prior FTC estimates, due to changes in rules.

<sup>3</sup> Burden per transaction in many categories has increased compared to prior FTC estimates, due to changes in rules.

<sup>4</sup> Mortgages have decreased.

<sup>5</sup> Regulation Z now requires disclosures for timely settlement of estate debts.

<sup>6</sup> Regulation Z now has special credit card requirements.

<sup>7</sup> Home equity lines of credit have decreased.

<sup>8</sup> Regulation Z now requires higher education institutions to disclose credit card marketing agreements.

<sup>9</sup> Regulation Z now requires card issuers to submit reports on college student credit card marketing.

<sup>10</sup> Regulation Z now requires card issuers to post and report general credit card agreements.

<sup>11</sup> Regulation Z now requires certain acquirers of legal title to disclose the sale, transfer, or assignment of mortgages.

<sup>12</sup> Regulation Z now requires reporting of appraiser misconduct.

<sup>13</sup> Estimated closed-end credit disclosure transactions have increased from the FTC's previously cleared estimate.

<sup>14</sup> Mortgages have decreased.

<sup>15</sup> Regulation Z now has substantial redisclosure requirements. Previously, redisclosures generally were provided in the ordinary course of business. Rule changes since set numerous procedures and circumstances for redisclosures.

<sup>16</sup> Variable rate mortgages have decreased.

<sup>17</sup> Mortgages have decreased.

<sup>18</sup> Reverse mortgages have decreased.

<sup>19</sup> Regulation Z now requires disclosures for private education loans.

<sup>20</sup> Regulation Z now requires certain acquirers of legal title to disclose the sale, transfer, or assignment of mortgages.

<sup>21</sup> Regulation Z now requires reporting of appraiser misconduct.

## Regulation Z: Recordkeeping and Disclosures – Cost

Required Task	-----Managerial-----		-----Skilled Technical-----		-----Clerical-----		Total Cost
	Time (hours)	Cost (\$49/hr.)	Time (hours)	Cost (\$30/hr.)	Time (hours)	Cost (\$16/hr.)	
Recordkeeping	0	\$0	66,310	\$1,989,300	596,789	\$9,548,624	\$11,537,924



Open-end credit Disclosures:							
Initial terms	15,875	\$777,875	142,875	\$4,286,250	0	\$0	\$5,064,125
Rescission notices	135	\$6,615	1,220	\$36,600	0	\$0	\$43,215
Subsequent disclosures	20,333	\$996,317	183,000	\$5,490,000	0	\$0	\$6,486,317
Periodic statements	276,958	\$13,570,942	2,492,625	\$74,778,750	0	\$0	\$88,349,692
Error resolution	43,375	\$2,125,375	390,375	\$11,711,250	0	\$0	\$13,836,625
Credit and charge card accounts	9,688	\$474,712	87,187	\$2,615,610	0	\$0	\$3,090,322
Settlement of estate debts	4,000	\$196,000	36,000	\$1,080,000	0	\$0	\$1,276,000
Special credit card requirements	9,688	\$474,712	87,187	\$2,615,610	0	\$0	\$3,090,322
Home equity lines of credit	458	\$22,442	4,126	\$123,780	0	\$0	\$146,222
College student credit card marketing – ed institutions	229	\$11,221	2,063	\$61,890	0	\$0	\$73,111
College student credit card marketing – card issuer reports	45	\$2,205	405	\$12,150	0	\$0	\$14,355
Posting and reporting of credit card agreements	9,688	\$474,712	87,187	\$2,615,610	0	\$0	\$3,090,322
Advertising	7,875	\$385,875	70,875	\$2,126,250	0	\$0	\$2,512,125
Sale, transfer, or assignment of mortgages	823	\$40,327	7,407	\$222,210	0	\$0	\$262,537
Appraiser misconduct reporting	54,687	\$2,679,663	492,188	\$14,765,640	0	\$0	\$17,445,303
Total open-end credit							\$144,780,593
Closed-end credit Disclosures:							
Credit disclosures	640,633	\$31,391,017	5,765,699	\$172,970,970	0	\$0	\$204,361,987
Rescission notices	13,437	\$658,413	120,938	\$3,628,140	0	\$0	\$4,286,553
Redisclosures	13,750	\$673,750	123,750	\$3,712,500	0	\$0	\$4,386,250
Variable rate mortgages	2,125	\$104,125	19,125	\$573,750	0	\$0	\$677,875
High-rate/high-fee mortgages and higher priced mortgages	969	\$47,481	8,719	\$261,570	0	\$0	\$309,051
Reverse mortgages	698	\$34,202	6,281	\$188,430	0	\$0	\$222,632
Advertising	12,813	\$627,837	115,315	\$3,459,450	0	\$0	\$4,087,287
Private education loans	130	\$6,370	1,170	\$35,100	0	\$0	\$41,470
Sale, transfer, or assignment of mortgages	7,083	\$347,067	63,750	\$1,912,500	0	\$0	\$2,259,567
Appraiser misconduct reporting	54,687	\$2,679,663	492,188	\$14,765,640	0	\$0	\$17,445,303
Total closed-end credit							\$238,077,975
Total Disclosures							\$382,858,568
Total Recordkeeping and Disclosures							\$394,396,492

**Request for Comment:** You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before [insert date 30 days from FEDERAL REGISTER date of publication ]. Write “Regs BEMZ, PRA Comments, P084812” on your comment. Your comment - including your name and your state - will be placed on the public record of this proceeding, including to the extent practicable, on the public Commission Website, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential" as provided in Section 6(f) of the FTC Act 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c)).<sup>23</sup> Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/RegsBEMZpra2> by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/#!home>, you also may file

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<sup>23</sup> In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), CFR 4.9(c), 16 CFR 4.9(c).

a comment through that website.

If you file your comment on paper, write “Regs BEMZ, PRA Comments, P084812” on your comment and on the envelope , and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex J) 600 Pennsylvania Avenue, NW, Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Comments on the information collection requirements subject to review under the PRA should additionally be submitted to OMB. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street, NW, Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments instead should be sent by facsimile to (202) 395-5167.

Visit the Commission Website at to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before (insert date 30 days from FEDERAL REGISTER date of publication]. You can find more information, including routine uses permitted by the Privacy Act, in the Commission’s privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

Willard K. Tom  
General Counsel.

